



September 20, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: *Ex Parte* Communication: WC Docket Nos. 10-90, 07-135, 05-337, 03-109;
GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45**

Dear Ms. Dortch:

The Commission currently is considering much-needed reform to the existing federal universal service (“USF”) and intercarrier compensation (“ICC”) regimes. To assist the Commission in this endeavor, six price cap carriers have offered the ABC Plan¹ and a coalition of rural carrier associations has submitted the ROR Plan.² Together, these plans set forth a detailed framework for overhaul of the outdated federal USF and ICC rules to expand the reach of broadband to unserved and underserved areas throughout the United States.

ITTA’s members are mid-size local exchange companies (including both price-cap and rate-of-return carriers) that provide a range of voice, data, and video services to approximately 19.5 million access lines in 44 states. On average, the ITTA member companies have deployed broadband to approximately 85 percent of their respective service areas, many of which are located in rural areas with low population densities.

¹ Letter from Robert W. Quinn, Jr., AT&T, Steve Davis, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, and Michael D. Rhoda, Windstream, to Marlene H. Dortch, FCC, WC Docket No. 10-90, *et al.* (filed July 29, 2011).

² Comments of NECA, NTCA, OPASTCO, and WTA, WC Docket No. 10-90, *et al.* (filed April 18, 2011) (“ROR Plan”), *as modified by* Letter from Walter B. McCormick, Jr., USTelecom, Robert W. Quinn, Jr., AT&T, Melissa Newman, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, Michael D. Rhoda, Windstream, Shirley Bloomfield, NTCA, John Rose, OPASTCO, and Kelly Worthington, WTA, to Marlene H. Dortch, FCC, WC Docket No. 10-90, *et al.* (filed July 29, 2011) (“Joint Letter”).

ITTA believes that the framework reflected in the industry plans could serve as a useful and constructive starting point for USF and ICC reform that provides a reasonable path toward reaching the longstanding goal of rational and predictable USF and ICC programs that meet the broadband needs of all Americans. However, the framework does not fully address the needs of the mid-size telecommunications carriers that did not have the opportunity for direct participation in the negotiations which led to its development. As detailed below, several modifications to the framework that reflect the business realities facing these mid-size carriers are needed to ensure that they will be able to continue to provide and expand broadband service to rural customers throughout the country.

ICC Rate Review. Pursuant to the industry framework, all terminating intercarrier compensation rates would ultimately be reduced to a uniform default rate of \$0.0007 per minute. Because intercarrier compensation is a critical revenue component for many mid-size carriers, ITTA has voiced concerns regarding the proposed rate and the harm to mid-size carrier customers that would result from drastic reductions to these charges, including increased rates and decreased broadband deployment, particularly in rural areas.³

Should the Commission nonetheless adopt \$0.0007 as the default rate to apply at the end of the transition period, it should commit to conduct proceedings under both the ABC Plan and the ROR Plan at a reasonable point in each plan's transition process to make an affirmative determination regarding whether the industry framework is working as contemplated or should be changed.⁴ Furthermore, the transition should not continue while the Commission is conducting its review. For price cap carriers, ITTA proposes that the suspension and review period commence at the point in time that each carrier has reduced its terminating end office rates by one-third of the differential between its end office rates and \$0.0007. For rate-of-return carriers, the suspension and review period should commence at the point in time that carriers have reduced their terminating end office rates to \$0.005.

Regulatory Status Flexibility. The industry framework does not address what would happen should a carrier that is operating under rate-of-return regulation wish to move to price cap regulatory status during the pendency of the new USF regime. This omission introduces some uncertainties in how the reformed federal USF and ICC programs will operate that could have important implications for the business operations of incumbent carriers.

As ITTA has stated in its comments, carriers should be free to change their regulatory status (whether regulated today as a price cap or rate-of-return carrier) in response to the reforms adopted by the Commission.⁵ Given the sweeping changes anticipated by the new rules, carriers

³ Comments of the Independent Telephone & Telecommunications Alliance, Cincinnati Bell Inc., Hargray Telephone Company, Inc., and Hickory Tech Corporation, WC Docket No. 10-90, *et al.* (filed Aug. 24, 2011) ("ITTA, *et al.* Comments"), at 20-24; Reply Comments of the Independent Telephone & Telecommunications Alliance, Cincinnati Bell Inc., Hargray Telephone Company, Inc., and Hickory Tech Corporation, WC Docket No. 10-90, *et al.* (filed Sept. 6, 2011), at 7-8.

⁴ Although the ROR Plan (but not the ABC Plan) provides for the possibility of Commission review of the transition process at the five-year mark, it does not go far enough. *See* Joint Letter, at n. 1.

⁵ ITTA, *et al.* Comments, at 8-9.

should have the flexibility, as they do today, to assess the impact of those changes on their businesses and make a determination as to whether they would be better served by maintaining their current status or changing the manner in which they are regulated on the federal level. The Commission should not hinder or impede a carrier's ability to effectuate a change in regulatory status at whatever time it deems appropriate. Straightforward, easy-to-administer rules should be adopted to govern how a carrier will be treated should it decide to change its regulatory status during the pendency of the ICC transition period or the life of the Connect America Fund.

* * * *

As an additional matter, industry stakeholders must be provided with meaningful access to, and a reasonable period of time to review and provide input on, the proprietary CQBAT cost model used under the ABC Plan. The ABC Plan signatories recently have made certain aspects of the model available electronically pursuant to a protective order and licensing agreement.⁶ With this access, carriers can run reports from the cost model at varying levels of geographic detail that are based on pre-determined data sets that cannot be altered by the user. Carriers can change certain variables (*i.e.*, the overall fund size) that realistically are unlikely to change. Carriers also can review data for other price cap or rate-of-return companies.

An important reason to provide access to the model is to enable companies that will be affected by changes to the Commission's USF and ICC programs to review and validate critical assumptions and calculations made in the development of the model. The online platform that has been made available does not give carriers that capability. For example, the level of access currently being provided does not permit carriers to view and validate the company-specific data used in developing the model, view the specifics of the costs that are included, or view the assumptions used to determine the extent of cable competition.

These shortcomings must be addressed before the Commission can adopt the CQBAT model as the basis for calculating high-cost support under the new USF regime. Unless carriers are permitted to review and provide feedback on the assumptions and calculations underlying construction of the model, the Commission will not be able to fully and fairly evaluate those assumptions and calculations. Adoption of the CQBAT model in the absence of such review and validation would be arbitrary and capricious.

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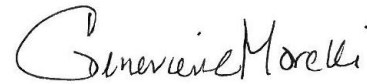
The suggested intercarrier compensation reforms in the industry framework will fundamentally alter the regulatory landscape and the way communications providers do business. ITTA believes that the above-described modifications would safeguard against unanticipated impacts from the Commission's adoption of the industry framework that may run counter to its goal of achieving ubiquitous broadband access for all Americans consistent with Section 254 of the Communications Act.

⁶ Supplemental Protective Order, WC Docket No. 10-90, *et al.*, DA 11-1525 (rel. Sept. 9, 2011).

Ms. Marlene H. Dortch
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Please do not hesitate to contact the undersigned with any questions regarding this letter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Genevieve Morelli". The signature is written in dark ink and is positioned above the printed name and title.

Genevieve Morelli
President

cc: Zac Katz
Margaret McCarthy
Christine Kurth
Angela Kronenberg
Sharon Gillett
Carol Matthey
Steven Rosenberg
Rebekah Goodheart
Randy Clarke
Jennifer Prime
Patrick Halley
Trent Harkrader
Amy Bender
Al Lewis
Marcus Maher
Victoria Goldberg